

LITIGATION I

Bachelor of Laws LLB [2504110] SEP-2023 L1-NLL.2.S.A

Area Dispute Resolution and Legal Practice

Number of sessions: 30

Academic year: 23-24

Degree course: SECOND

Number of credits: 6.0

Semester: 2º

Category: COMPULSORY

Language: English

Professor: **MARCO DE BENITO LLOPIS-LLOMBART**

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Marco de Benito holds the Jean Monnet Chair of European Civil Procedure at IE University (see <https://civilprocedure.ie.edu>). His areas of interest include comparative civil procedure, international arbitration, and legal history.

Prof. de Benito earned his doctorate from Comillas Pontifical University in Madrid. During his doctoral studies, he spent a year at Yale Law School and was a guest scholar at the Max Planck Institute for Comparative and International Private Law in Hamburg. Since then, he has spoken at universities such as Harvard, Maastricht, Bologna, Florence, Pisa, Pavia, Peking and a number of Latin American schools, from Mexico to Argentina.

He has authored critically acclaimed monographs on arbitration agreements and European justice systems, co-authored a handbook on European legal history, and coordinated two collective works on international arbitration (see <https://marcodebenito.academia.edu>).

Prof. de Benito has been consulted by the Spanish Congress and the Argentinian Government on the reform of the two countries' arbitration laws.

For two decades, he has arbitrated in seats such as Paris, London, Geneva, Milan, Madrid, or Miami, under the ICC, UNCITRAL, and Swiss Rules, applying Spanish, Austrian, or Italian law, as well as the *lex mercatoria*. He is regularly selected as one of the foremost arbitration practitioners of his generation. Visit his boutique's website, <https://www.marcodebenito.com>, to know more about his professional activity.

Prof. de Benito is a corresponding member of the Spanish Royal Academy of Jurisprudence and Legislation and a member of the International Association of Procedural Law and of the ICC Institute of World Business Law. He serves as co-editor-in-chief of *Arbitraje*, the premier academic journal on arbitration in Spanish.

He is fluent in English, Spanish and Italian, and can read German, French and Portuguese.

Office Hours

Office hours will be on request. Please contact at:

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SUBJECT DESCRIPTION

Litigation I deals with civil procedure, one of the core subjects of any law degree.

The course addresses the basic conceptual architecture of civil procedure through a decidedly transnational approach. The course will follow closely the Model European Rules of Civil Procedure, elaborated by the world's leading procedural experts under the auspices of the European Law Institute (ELI) and the International Institute for the Unification of Private Law (UNIDROIT).

This transnational perspective is enriched by constant references to the positive expressions of the model rules in the actual rules of different jurisdictions, in particular Spain, France, Germany, England, and the EU. The course ends with a brief look into the most salient aspects of the civil procedure in the USA, with a comparative discussion.

This course is one of the core activities of the Jean Monnet Chair in European Civil Procedure, the first — and so far the only — Jean Monnet Chair specifically devoted to the study and dissemination of the ELI-UNIDROIT European Rules of Civil Procedure.

LEARNING OBJECTIVES

This course aims at helping the students develop the skills required to understand and effectively use the main principles, notions, rules, and terminology that make up the “general part” of civil procedure: the organization of courts; the formative principles of civil procedure; the types of relief that can be sought; the structure of an ordinary civil proceeding; the offering and taking of evidence; provisional and protective measures; appeals.

Likewise, the students will acquire the skills necessary to critically analyze, synthesize, present, and reason on contents related to civil procedure.

TEACHING METHODOLOGY

IE University teaching method is defined by its collaborative, active, and applied nature. Students actively participate in the whole process to build their knowledge and sharpen their skills. Professor's main role is to lead and guide students to achieve the learning objectives of the course. This is done by engaging in a diverse range of teaching techniques and different types of learning activities such as the following:

Learning Activity	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	20.0 %	30.0 hours
Discussions	20.0 %	30.0 hours

Exercises in class, Asynchronous sessions, Field Work	20.0 %	30.0 hours
Group work	20.0 %	30.0 hours
Individual studying	20.0 %	30.0 hours
TOTAL	100.0 %	150.0 hours

PROGRAM

SESSIONS 1 - 2 (LIVE IN-PERSON)

Overview. The actors of civil justice.

SESSION 3 (LIVE IN-PERSON)

Court organization and structure.

SESSION 4 (LIVE IN-PERSON)

Court organization and structure.

SESSION 5 (LIVE IN-PERSON)

Court organization and structure.

SESSIONS 6 - 7 (LIVE IN-PERSON)

Jurisdiction and competence.

SESSION 8 (LIVE IN-PERSON)

Jurisdiction and competence.

SESSIONS 9 - 10 (LIVE IN-PERSON)

Parties to proceedings.

SESSION 11 (LIVE IN-PERSON)

The claim. Types of relief.

SESSION 12 (LIVE IN-PERSON)

The statements of claim and defense.

SESSION 13 (LIVE IN-PERSON)

Overview of an ordinary proceeding.

SESSION 14 (LIVE IN-PERSON)

The interim phase.

SESSIONS 15 - 16 (LIVE IN-PERSON)

Access to information and evidence.

SESSION 17 (LIVE IN-PERSON)

Access to information and evidence.

SESSION 18 (LIVE IN-PERSON)

Access to information and evidence.

SESSIONS 19 - 20 (LIVE IN-PERSON)

Provisional and protective measures.

SESSION 21 (LIVE IN-PERSON)

The judgment.

SESSIONS 22 - 23 (LIVE IN-PERSON)

Comparative perspective: the USA.

SESSIONS 24 - 25 (LIVE IN-PERSON)

Means of review.

SESSION 26 (LIVE IN-PERSON)

Means of review.

SESSION 27 (LIVE IN-PERSON)

Principles of civil procedure.

SESSION 28 (LIVE IN-PERSON)

Constitutional and international perspective.

SESSION 29 (LIVE IN-PERSON)

Historical and political perspective.

SESSION 30 (LIVE IN-PERSON)

Exam.

EVALUATION CRITERIA

a) General observations

Each student has four attempts over two consecutive academic years to pass this course.

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 80% of the sessions. Students who do not comply with the 80% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

b) Evaluation and weighting criteria

The grade is generally determined based on the following criteria:

1. Contribution to the class (attendance, attitude, readings, active participation, voluntary presentations, general online forum): 20%
2. Individual work (assignments, pleadings, hearings, comparative online forum): 40%
3. Exam: 40%

A grade of less than 4.0 in the exam suffices to fail the whole course.

criteria	percentage	Learning Objectives	Comments
Exam	40 %		Exam
Individual Work	40 %		Assignments, quizzes, hearings, comparative online forum, etc.
Contribution to the class	20 %		Attendance, attitude, readings, active participation, voluntary presentations, general online forum, etc.

RE-SIT / RE-TAKE POLICY

c) Retake policy

Any student whose weighted final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

- The retake will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.
- The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.

The third attempt will require the student to complete:

- a written assignment (40%)
- a final exam (60%)

This is also applicable to students who do not have required attendance, e.g. due to sickness. Dates and location of the retakes will be posted in advance and will not be changed.

BEHAVIOR RULES

Please, check the University's Code of Conduct [here](#). The Program Director may provide further indications.

ATTENDANCE POLICY

Please, check the University's Attendance Policy [here](#). The Program Director may provide further indications.

ETHICAL POLICY

Please, check the University's Ethics Code [here](#). The Program Director may provide further indications.

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